Conferences of the Parties to the Basel, Rotterdam and Stockholm Conventions
Rotterdam Convention
Ninth Meeting of the Conference of Parties
Geneva, Switzerland
April 29 – May 10, 2019

Agenda Item 5(b):	**Matters related to the implementation of the Convention: Listing of chemicals in Annex III to the Convention (chrysotile asbestos)**
Relevant Documents:	**UNEP/FAO/RC/COP.9/10** Inclusion of chrysotile asbestos in Annex III to the Rotterdam Convention **UNEP/FAO/RC/COP.9/10/Add.1** Inclusion of chrysotile asbestos in Annex III to the Rotterdam Convention: draft decision guidance document **UNEP/FAO/RC/COP.5/26**, annex IV

U.S. Objectives:

- Support the listing of chrysotile asbestos in Annex III by consensus.

Issues:

The Conference of the Parties is expected to consider a decision to list chrysotile asbestos (CAS No. 12001-29-5) under the industrial chemical category in Annex III to the Rotterdam Convention, with an entry into force date for all parties on September 16, 2019, and to approve the associated draft decision guidance document set out in the annex to document UNEP/FAO/RC/COP.9/10/Add.1.

If consensus is reached to list, the draft decision prepared at COP 5 (UNEP/FAO/RC/COP.5/26, annex IV) regarding follow-up action by the Chemical Review Committee on sharing information regarding alternatives and risk management measures would also be considered by the COP for adoption.

U.S. Position:

The United States supports the adoption of the decision as proposed. The USG agrees that all the requirements for listing in Annex III have been met and supports the proposed date for entry into force of September 16, 2019, and the approval of the draft decision guidance document. The United States also could support the adoption of the decision prepared at COP 5 calling for submission and sharing of information regarding alternatives and risk management measures for chrysotile asbestos.

The United States' preference has always been to list chrysotile asbestos, although reaching consensus to list chrysotile asbestos has been an issue since COP 3. At earlier COPs, the U.S. delegation abstained from publicly taking the floor in support of a listing at the request of Canada. However, at COP7 Canada changed its position from blocking consensus to not expressing a view, and the United States did intervene to support listing. The United States also intervened to support listing at COP 8 [Did the delegation intervene?]. It is not yet clear whether the other delegations that blocked consensus at COP8 (i.e., the Russian Federation, Zimbabwe, Kyrgyzstan, Kazakhstan, Cuba, and India [list of countries blocking consensus at COP7 - was this also the case at COP8?]) will allow this chemical to move forward to listing.

The U.S. delegation should remain firm in its position that all listing decisions should be made by consensus and may draw on its additional points on consensus, as appropriate. That being said, it is likely that repetitive interventions for each and every chemical where consensus may not be reached would be unwelcomed in the plenary and would perhaps only serve to dilute our strong message and a dismissal of our views. The delegation should affirmatively use its corridor conversations and JUSSCANNZ partners to reinforce the consensus obligation where possible and, once on the ground, decide how best the delegation should make its invention(s) on consensus based on the flow and tenor of the meeting and where the intervention(s) would be most effective.

Talking points (if needed):

- (*If listing looks probable*) The United States supports adding chrysotile asbestos to Annex III of the Convention. We appreciate the efforts of those who are willing to support listing today and we are pleased that consensus has been reached. Consensus decision-making is an important aspect of multilateral environmental agreements since it is a measure of the commitment of each Party to the outcome.

- *(If listing looks unlikely or consensus cannot be reached)* The United States is disappointed that yet again consensus is unable to be reached. As we have noted in the past, we believe that the consensus obligation of this Convention is very important. We look forward to continuing discussions this week with hopes for improvements in the CRC process, the work of the Secretariat, and in our collective diplomatic efforts to engage all Parties in meaningful technical and policy discussions.

Background:

The crocidolite form of asbestos was carried over from the voluntary PIC procedure and included in Annex III of the Convention text. This listing did not include the chrysotile form of asbestos.

Chile and the European Community (EC) proposed listing [Language from COP8 position paper – did the countries propose listing or did the committee review the notifications of final

regulatory action that the countries submitted, and subsequently recommend listing?] five additional forms of asbestos, including chrysotile, at the third Interim Chemical Review Committee (IRCR3) in 2002. By ICRC4 in 2003, Canada was already unhappy with the direction of the Committee but the DGD was completed and the listing recommendation sent forward. Canada requested a deferral on the decision on chrysotile.

In 2004, a special meeting was convened immediately preceding the first Conference of the Parties (COP1) to consider the inclusion of chrysotile asbestos and other chemicals in the interim procedure, but to no avail. Canada and others maintained that serpentine (chrysotile) asbestos is inherently less toxic than the amphibole forms of asbestos which had already been listed in Annex III. They also argued that chrysotile is hazardous only if the fibers are inhaled. In their stated view, if asbestos fibers are enclosed or tightly bound in a product, for example in asbestos siding or asbestos floor tiles, there are no significant health risks because the asbestos fibers would not be present in the air that people breathe. The United States, on the other hand, believes that there is insufficient information to support regulations which differentiate between chrysotile and other forms of asbestos. The United States continues to regulate serpentine (chrysotile) asbestos and the amphibole forms of asbestos with equal stringency.

At CRC2, in 2006, several experts demanded a vote to move the draft DGD forward. The vote was taken and the required two-thirds majority of the Committee supported forwarding the draft DGD to the COP.

Consensus to list, however, was determined not to be possible at COP3 due to opposition by Canada, Russia, Ukraine, and Kyrgyzstan (primarily). COP4 was again unable to reach consensus. Kazakhstan, Kyrgyzstan, Ukraine, Vietnam, Russia and Zimbabwe all opposed listing chrysotile asbestos. Canada also opposed the listing but was largely silent during the floor debate. COP5 failed to reach consensus. Canada had withdrawn their objections to listing at COP6; however, COP6 failed to reach consensus based on objections from others, notably Russia supported by Zimbabwe, Kyrgyzstan, Kazakhstan and India. At COP7 Russia opposed its listing, as did Zimbabwe, Kyrgyzstan, Kazakhstan, India, Cuba, Pakistan, and Belarus (a non-Party). The same materials prepared at CO4 were reviewed by COP5, COP6, COP7, and COP8 and will be presented to COP9.

The 1993 U.S. EPA IRIS assessment of asbestos classified these chemicals as human carcinogens based on the observation of increased mortality and incidence of lung cancer, mesotheliomas and gastrointestinal cancer in occupationally exposed workers, consistent across investigators and study populations. Animal studies by inhalation in two strains of rats showed similar findings for lung cancer and mesotheliomas. Animal evidence for carcinogenicity via ingestion is limited and epidemiologic data in this regard are inadequate. The IRIS assessment also found that there is some evidence which suggests that the different types of asbestos fibers vary in carcinogenic potency relative to one another and site specificity. It appears, for example, that the risk of mesothelioma is greater with exposure to crocidolite than with amosite or chrysotile exposure alone. This evidence is limited by the lack of information on fiber exposure by mineral type. Other data indicates that differences in fiber size distribution and other process

differences may contribute at least as much to the observed variation in risk as does the fiber type itself.

In November 2016, U.S. EPA announced asbestos, to include chrysotile asbestos, as one of ten chemicals to undergo risk evaluation by the end of 2019. If unreasonable risks are identified, U.S. EPA must take final risk management action within two years, as required by the Toxic Substances Control Act (TSCA), as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act. Asbestos has not been mined in the United States since 2002, but the United States continues to import some asbestos-containing products (worth $4.63 million in 2015) from multiple countries (Belgium, Brazil, Canada, China, El Salvador, Germany, Italy, Japan, Israel, Mexico, Norway, Peru, Spain, Switzerland, Taiwan, United Kingdom) and import raw chrysotile asbestos (340 metric tons from Russia and Brazil in 2016) for use in diaphragms for the chlor-alkali process.

In August 2018, U.S. EPA proposed a significant new use rule (SNUR) for certain uses of asbestos (including asbestos-containing goods) that would require manufacturers and importers to receive U.S. EPA approval before starting or resuming manufacturing, and importing or processing of asbestos. This review process would require U.S. EPA to evaluate the intended use of asbestos and, when necessary, take action to prohibit or limit the use. This proposed SNUR broadens U.S. EPA's 1989 restrictions on asbestos products. U.S. EPA is proposing to ensure that the manufacture, import, or processing for the currently unregulated new uses of asbestos identified in the rule are prohibited unless reviewed and approved by U.S. EPA. In the absence of this proposed rule, the importing or processing of asbestos (including as part of an article) for the significant new uses proposed in this rule may begin at any time, without prior notice to U.S. EPA.

Drafted: EPA/OCSPP/OPPT Laura Nazef

Cleared: